

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE JULY 17, 2003

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Correa

**(Coauthors: ~~Assembly Members Daucher, Harman, Maddox,~~
~~and Negrete McLeod~~)**
(Coauthor: ~~Senator Soto~~)

February 14, 2003

An act to ~~add and repeal Division 23.6 (commencing with Section 33807) of the Public Resources Code, relating to the Santa Ana River Conservancy; amend Sections 94739, 94802, 94901, 94905, and 94945 of, to amend and renumber Section 94740.1 of, and to add Sections 94735.2, 94735.3, 94740.3, and 94740.5 to, the Education Code, relating to private postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Correa. ~~Santa Ana River Conservancy~~
Private postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989: regionally accredited institutions.

Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act excludes from the definition of private postsecondary educational institutions subject to regulation under its provisions for-profit institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC), if the institution exclusively confers degrees upon the completion of a course of study of 2 or more years. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. Numerous terms are defined for the purposes of the act.

This bill would modify that definitional exclusion to exclude all for-profit institutions accredited by WASC.

The bill would define “major national accrediting agency,” “major nationally accredited institution,” “non-WASC regional accrediting agency,” and “non-WASC regionally accredited institution” for the purposes of the act.

The bill would require a major nationally accredited institution or a non-WASC regionally accredited institution to include, in its application to operate in this state, a copy of the certificate of accreditation issued by the major national accrediting agency or the non-WASC regional accrediting agency. The bill would require the bureau to determine that a major nationally accredited institution or a non-WASC regionally accredited institution meets prescribed requirements before granting the institution approval to issue degrees. The bill would require the bureau to include, in an annual report to the Legislature and the California Postsecondary Education Commission that is required under existing law, its findings and recommendations relative to institutions that have secured institutional or programmatic approval under this provision.

The bill would also make related technical changes.

~~Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.~~

~~This bill would, until January 1, 2011, establish the Santa Ana River Conservancy to acquire and direct the management of specified public~~

~~lands in the Santa Ana River watershed area and would prescribe the management, powers, and duties of the conservancy. The bill would also create the Santa Ana River Conservancy Fund, but would prohibit the conservancy from implementing the funding authorization until the Legislature appropriates, from other than General Fund moneys, or a bond act approved by the voters allocates, the necessary funds.~~

~~The bill would require the conservancy, by January 1, 2005, and annually thereafter, to submit a report to the Governor and the Legislature on progress made to further the purposes of the conservancy. The bill would require the conservancy, on December 31, 2010, to transfer all land acquired in accordance with the provisions of the bill to the Resources Agency, unless the repeal of these provisions on January 1, 2011, is otherwise deleted or extended.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Division 23.6 (commencing with Section~~
2 ~~SECTION 1. Section 94735.2 is added to the Education Code~~
3 ~~to read:~~
4 ~~94735.2. “Major national accrediting agency” means an~~
5 ~~agency recognized by the United States Department of Education~~
6 ~~as possessing quality and rigor in accreditation standards; as~~
7 ~~required to track, achieve, and disclose student retention results or~~
8 ~~student completion results, or both, and graduate placement rates;~~
9 ~~and as an agency whose members, by virtue of their accreditation,~~
10 ~~qualify for award and disbursement of student grants or loans~~
11 ~~under the federal Higher Education Act of 1965. Major national~~
12 ~~accrediting agencies, within the meaning of this section, are~~
13 ~~limited to the following:~~
14 ~~(a) The Accrediting Council for Independent Colleges and~~
15 ~~Schools (ACICS).~~
16 ~~(b) The Accrediting Commission of Career Schools of~~
17 ~~Technology (ACCSCT).~~
18 ~~(c) The Accrediting Council for Continuing Education~~
19 ~~(ACCET).~~
20 ~~SEC. 2. Section 94735.3 is added to the Education Code, to~~
21 ~~read:~~

1 94735.3. “Major nationally accredited institution” means an
2 institution that provides a degree, diploma, or certificate, and that
3 is accredited by a major national accrediting agency, as defined
4 in Section 94735.2.

5 SEC. 3. Section 94739 of the Education Code is amended to
6 read:

7 94739. (a) “Private postsecondary educational institution”
8 means any person doing business in California that offers to
9 provide or provides, for a tuition, fee, or other charge, any
10 instruction, training, or education under any of the following
11 circumstances:

12 (1) A majority of the students to whom instruction, training, or
13 education is provided during any 12-month period is obtained
14 from, or on behalf of, students who have completed or terminated
15 their secondary education or are beyond the age of compulsory
16 high school attendance.

17 (2) More than 50 percent of the revenue derived from providing
18 instruction, training, or education during any 12-month period is
19 obtained from, or on behalf of, students who have completed or
20 terminated their secondary education or are beyond the age of
21 compulsory high school attendance.

22 (3) More than 50 percent of the hours of instruction, training,
23 or education provided during any 12-month period is provided to
24 students who have completed or terminated their secondary
25 education or are beyond the age of compulsory high school
26 attendance.

27 (4) A substantial portion, as determined by the ~~council, bureau~~
28 ~~or by regulation~~, of the instruction, training, or education ~~provided~~
29 is provided to students who have completed or terminated their
30 secondary education or are beyond the age of compulsory high
31 school attendance.

32 (b) The following are not considered to be private
33 postsecondary educational institutions under this chapter:

34 (1) Institutions exclusively offering instruction at any or all
35 levels from preschool through the 12th grade.

36 (2) Institutions offering education solely avocational or
37 recreational in nature, and institutions offering this education
38 exclusively.

1 (3) Institutions offering education sponsored by a bona fide
2 trade, business, professional, or fraternal organization, solely for
3 that organization's membership.

4 (4) Postsecondary or vocational educational institutions
5 established, operated, and governed by the federal government or
6 by this state, or its political subdivisions.

7 (5) Institutions offering continuing education where the
8 institution or the program is approved, certified, or sponsored by
9 any of the following:

10 (A) A government agency, other than the bureau, that licenses
11 persons in a particular profession, trade, or job category.

12 (B) A state-recognized professional licensing body, such as the
13 State Bar of California, that licenses persons in a particular
14 profession, trade, or job category.

15 (C) A bona fide trade, business, or professional organization.

16 (6) A nonprofit institution owned, controlled, and operated and
17 maintained by a bona fide church, religious denomination, or
18 religious organization comprised of multidenominational
19 members of the same well-recognized religion, lawfully operating
20 as a nonprofit religious corporation pursuant to Part 4
21 (commencing with Section 9110) of Division 2 of Title 1 of the
22 Corporations Code, if the education is limited to instruction in the
23 principles of that church, religious denomination, or religious
24 organization, or to courses offered pursuant to Section 2789 of the
25 Business and Professions Code, and the diploma or degree is
26 limited to evidence of completion of that education, and the
27 meritorious recognition upon which any honorary degree is
28 conferred is limited to the principles of that church, religious
29 denomination, or religious organization. Institutions operating
30 under this paragraph shall offer degrees and diplomas only in the
31 beliefs and practices of the church, religious denomination, or
32 religious organization. The enactment of this paragraph expresses
33 the legislative intent that the state shall not involve itself in the
34 content of degree programs awarded by any institution operating
35 under this paragraph, as long as the institution awards degrees and
36 diplomas only in the beliefs and practices of the church, religious
37 denomination, or religious organization. Institutions operating
38 under this paragraph shall not award degrees in any area of
39 physical science. Any degree or diploma granted in any area of
40 study under these provisions shall contain on its face, in the written

1 description of the title of the degree being conferred, a reference
2 to the theological or religious aspect of the degree's subject area.
3 Degrees awarded under this paragraph shall reflect the nature of
4 the degree title, such as "Associate of Religious Studies," or
5 "Bachelor of Religious Studies," or "Master of Divinity" or
6 "Doctor of Divinity." The use of the degree titles "Associate of
7 Arts" or "Associate of Science," "Bachelor of Arts" or
8 "Bachelor of Science," "Master of Arts" or "Master of Science,"
9 or "Doctor of Philosophy" or "Ph.D." shall only be awarded by
10 institutions approved to operate under Article 8 (commencing with
11 Section 94900) or meeting the requirements for an exemption
12 under Section 94750. The enactment of this paragraph is intended
13 to prevent any entity claiming to be a nonprofit institution owned,
14 controlled, and operated and maintained by a bona fide church,
15 religious denomination, or religious organization comprised of
16 multidenominational members of the same well-recognized
17 religion, lawfully operating as a nonprofit religious corporation
18 pursuant to Part 4 (commencing with Section 9110) of Division 2
19 of Title 1 of the Corporations Code, from marketing and granting
20 degrees or diplomas that are represented as being linked to their
21 church, religious denomination, or religious organization, but
22 which, in reality, are degrees in secular areas of study. An
23 institution operating under this paragraph shall file annually with
24 the council evidence to demonstrate its status as a nonprofit
25 religious corporation under the Corporations Code. A college or
26 university operating under this paragraph shall file annually with
27 the council evidence to demonstrate its status as a nonprofit
28 religious corporation under the ~~Corporation~~ Corporations Code.
29 (7) (A) Public institutions accredited by the ~~senior~~
30 ~~commission or the junior commission~~ *Accrediting Commission for*
31 *Senior Colleges and Universities or the Accrediting Commission*
32 *for Community and Junior Colleges* of the Western Association of
33 Schools and Colleges.
34 (B) Institutions accredited by the ~~senior commission or the~~
35 ~~junior commission~~ *Accrediting Commission for Senior Colleges*
36 *and Universities or the Accrediting Commission for Community*
37 *and Junior Colleges* of the Western Association of Schools and
38 Colleges that are incorporated and lawfully operating as a
39 nonprofit public benefit corporation pursuant to Part 2
40 (commencing with Section 5110) of Division 2 of Title 1 of the

Corporations Code and that are not managed by any entity for profit.

(C) For-profit institutions accredited by the ~~senior or the junior commission~~ *Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges* of the Western Association of Schools and Colleges, ~~if the institution exclusively confers degrees upon the completion of a course of study of two or more years.~~

(D) Institutions accredited by the Western Association of Schools and Colleges that do not meet all of the criteria in subparagraph (B) and that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that have been in continuous operation since April 15, 1997, and that are not managed by any entity for profit. Notwithstanding this subdivision, institutions that meet the criteria in this subparagraph shall be subject to Section 94831, except subdivision (c) of that section, and Sections 94832, 94834, 94838, and 94985.

SEC. 4. Section 94740.1 of the Education Code is amended and renumbered to read:

~~94740.1.—~~

94740.7. “Registered,” “registered institution,” or “registered educational service” means any individual or organization that offers an educational service and is registered to operate under Article 9.5 (commencing with Section 94931).

SEC. 5. Section 94740.3 is added to the Education Code, to read:

94740.3. “Non-WASC regional accrediting agency” means a regional accrediting agency, other than the Western Association of Schools and Colleges, recognized by the United States Department of Education as possessing similar quality and rigor in accreditation standards, and limited to the following:

(a) Middle States Association of Colleges and Schools, Commission on Higher Education.

(b) New England Association of Schools and Colleges, Commission on Institutions of Higher Education.

(c) North Central Association of Colleges and Schools, The Higher Learning Commission.

1 (d) Northwest Association of Schools and of Colleges and
2 Universities, Commission on Colleges and Universities.

3 (e) Southern Association of Colleges and Schools, Commission
4 on Colleges.

5 SEC. 6. Section 94740.5 is added to the Education Code, to
6 read:

7 94740.5. “Non-WASC regionally accredited institution”
8 means a degree-granting institution that has been accredited by
9 one of the non-WASC regional accrediting agencies listed in
10 Section 94740.3. It does not include any of the following:

11 (a) An institution within the meaning of paragraph (7) of
12 subdivision (b) of Section 94739 that has been accredited by the
13 Accrediting Commission for Senior Colleges and Universities or
14 the Accrediting Commission for Community and Junior Colleges
15 of the Western Association of Schools and Colleges.

16 (b) An institution that has provisional accreditation.

17 (c) An institution that has applied for accreditation.

18 (d) An institution that is identified by an accrediting agency as
19 a candidate for accreditation.

20 SEC. 7. Section 94802 of the Education Code is amended to
21 read:

22 94802. (a) Each institution desiring to operate in this state
23 shall make application to the ~~council~~ bureau, upon forms to be
24 provided by the ~~council~~ bureau. The application shall include, as
25 a minimum, at least all of the following:

26 (1) A catalog published, or proposed to be published, by the
27 institution containing the information specified in the criteria
28 adopted by the ~~council~~ bureau. The catalog shall include specific
29 dates as to when the catalog applies.

30 (2) A description of the institution’s placement assistance, if
31 any.

32 (3) Copies of media advertising and promotional literature.

33 (4) Copies of all student enrollment agreement or contract
34 forms and instruments evidencing indebtedness.

35 (5) The name and California address of a designated agent upon
36 whom any process, notice, or demand may be served.

37 (6) The information specified in Section 94808.

38 (7) The institution’s most current financial report as described
39 in Section 94806.

(8) *An application submitted by a major nationally accredited institution, as defined in Section 94735.3, or a non-WASC regionally accredited institution, as defined in Section 94740.5, shall include a copy of the certificate of accreditation issued by the major national accrediting agency, as defined in Section 94735.2, or the non-WASC regional accrediting agency, as defined in Section 94740.3.*

(b) Each application shall be signed and certified under oath by the owners of the school or *by an authorized designee of the owners, such as the school president or director, or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the corporate officers or their designee.*

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Article 8 (commencing with Section 94900) and Article 9 (commencing with Section 94915), and any investigation of the applicant as the ~~council~~ bureau deems necessary or appropriate, the ~~council~~ bureau either shall grant or deny approval to operate to the applicant.

SEC. 8. *Section 94901 of the Education Code is amended to read:*

94901. (a) ~~The council~~ (1) *Except as provided in Section 94905, the bureau shall conduct a qualitative review and assessment of the institution. It also shall conduct a qualitative review and assessment of all programs offered except continuing education programs and programs that are exclusively avocational or recreational in nature. The review shall include the items listed in subdivision (b) of Section 94900, through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the ~~council~~ bureau for that purpose.*

~~At~~

(2) *An institution may include some or all of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the ~~council~~ bureau to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.*

~~The~~

(3) *The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for those multisite and multiprogram reviews. If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the ~~council~~ bureau.* Fees for renewal applications will be based on the actual costs involved in the administrative review process.

(b) The number of sites inspected by the ~~council~~ bureau as part of its review process shall be subject to the following considerations:

(1) If the application for approval includes branches and satellites, the ~~council~~ bureau shall inspect each branch and may inspect any satellite campus.

(2) If the application is for approval to operate a branch or a satellite, the ~~council~~ bureau, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(c) The ~~council~~ bureau may waive or modify the onsite inspection for institutions offering home study or correspondence courses. The visiting committee shall be impaneled by the ~~council~~ bureau within 90 days of the date of the receipt of a completed application, and shall be composed of educators, and other individuals with expertise in the areas listed in subdivision (b) of Section 94900, from degree-granting institutions legally operating within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, or any reasonable extension of time not to exceed 90 days, the ~~council~~ bureau shall take one of the following actions:

(1) If the institution is in compliance with this chapter, and has not operated within three years before the filing of the application in violation of this chapter then in effect, the bureau may grant an approval to operate not to exceed five years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of this chapter then in effect, or if the ~~council~~ bureau determines that an unconditional grant of approval to operate is not in the public interest, the ~~council~~ bureau may grant a conditional approval to operate subject to whatever restrictions the ~~council~~

bureau deems appropriate. The ~~council~~ *bureau* shall notify the institution of the restrictions or conditions, the basis for the restrictions or conditions, and the right to request a hearing to contest them. Conditional approval shall not exceed two years.

(3) The ~~council~~ *bureau* may deny the application. If the application is denied, the ~~council~~ *bureau* may permit the institution to continue offering the program of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(d) When evaluating an institution whose purpose is to advance postsecondary education through innovative methods, the visiting committee shall comprise educators who are familiar with, and receptive to, evidence bearing on the educational quality and accomplishments of those methods.

(e) The standards and procedures utilized by the ~~council~~ *bureau* shall not unreasonably hinder educational innovation and competition.

(f) Each institution or instructional program offering education for entry into a health care profession in which the provider has primary care responsibilities shall offer that education within a professional degree program ~~which~~ *that* shall be subject to approval by the ~~council~~ *bureau* pursuant to this section.

(g) (1) If an institution is not operating in California when it applies for approval to operate for itself or a branch or satellite campus, the institution shall file with its application an operational plan establishing that the institution will satisfy the minimum standards set forth in subdivision (a) of Section 94900. The operational plan also shall include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the filing of the application. The ~~council~~ *bureau* may request additional information to enable the ~~council~~ *bureau* to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the ~~council~~ *bureau* determines that the operational plan satisfies the minimum standards described in subdivision (a) of Section 94900, that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the ~~council~~ *bureau* shall grant a temporary

1 approval to operate, subject to any restrictions the ~~council~~ *bureau*
2 reasonably deems necessary to ensure compliance with this
3 chapter, pending a qualitative review and assessment as provided
4 in subdivisions (a) and (b) of Section 94900. The ~~council~~ *bureau*
5 shall inspect, pursuant to subdivision (a) of ~~Section 94901~~ *this*
6 *section*, the institution, or branch or satellite campus if approval is
7 sought for that campus between 90 days and 180 days after
8 operation has begun under the temporary approval to operate.
9 Following receipt of the visiting committee's or the ~~council~~ *bureau*
10 staff's report, the ~~council~~ *bureau* shall act as provided in paragraph
11 (1), (2), or (3) of subdivision (c).

12 (h) If at any time the ~~council~~ *bureau* determines that an
13 institution has deviated from the standards for approval, the
14 ~~council~~ *bureau*, after identifying for the institution the areas in
15 which it has deviated from the standards, and after giving the
16 institution due notice and an opportunity to be heard, may place the
17 institution on probation for a prescribed period of time, not to
18 exceed 24 calendar months. During the period of probation, the
19 institution shall be subject to special monitoring. The conditions
20 for probation may include the required submission of periodic
21 reports, as prescribed by the ~~council~~ *bureau*, and special visits by
22 authorized representatives of the ~~council~~ *bureau* to determine
23 progress toward total compliance. If, at the end of the probationary
24 period, the institution has not taken steps to eliminate the cause or
25 causes for its probation to the satisfaction of the ~~council~~ *bureau*,
26 the ~~council~~ *bureau* may revoke the institution's approval to award
27 degrees and provide notice to the institution to cease its operations.

28 (i) An institution may not advertise itself as an approved
29 institution unless each degree program offered by the institution
30 has been approved in accordance with the requirements of this
31 section. The ~~council~~ *bureau* shall review all operations of the
32 institution, pertaining to California degrees, both within and
33 outside of California. The ~~council~~ *bureau* may conduct site visits
34 outside of California, including the institution's foreign
35 operations, when the ~~council~~ *bureau* deems these visits to be
36 necessary. The institution shall be responsible for the expenses of
37 the visiting team members including the ~~council's~~ *bureau's* staff
38 liaison. The ~~council~~ *bureau* may authorize any institution
39 approved to issue degrees under this section to issue certificates for

the completion of courses of study that are within the institution's approved degree-granting programs.

(j) An institution shall not offer any educational program or degree title that was not offered by the institution at the time the institution applied for approval to operate, and shall not offer any educational program or degree title at a campus that had not offered the program or degree title at the time the institution applied for approval to operate that campus, unless the ~~council~~ *bureau* first approves the offering of the program or degree title after determining that it satisfies the minimum standards established by this section.

SEC. 9. Section 94905 of the Education Code is amended to read:

94905. (a) (1) Any ~~public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is approved by the council~~ *major nationally accredited institution, as defined in Section 94735.3, or non-WASC regionally accredited institution, as defined in Section 94740.5, that is incorporated in another state and maintains its accredited status throughout the period of a student's course of study, and that is approved by the bureau*, may issue degrees, diplomas, or certificates. Except for continuing education programs and programs that are exclusively avocational or recreational in nature, accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with this section.

(2) *A major nationally accredited institution or a non-WASC regionally accredited institution approved to operate pursuant to this section, and any and all of its program offerings, are subject to the requirements of Article 13 (commencing with Section 94950).*

(b) The ~~council~~ *bureau* shall not approve ~~an~~ *a* major nationally accredited institution or a non-WASC regionally accredited institution to issue degrees, diplomas, or certificates pursuant to this section until the ~~council bureau has conducted a qualitative review and assessment of, and has approved, each program offered by the institution and all of its operations in California, and the~~

~~council has determined that the institution meets all of the following standards:~~

~~(1) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.~~

~~(2) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.~~

~~(3) The education services and curriculum clearly relate to the objectives of the proposed program or programs.~~

~~(4) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.~~

~~(5) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.~~

~~(c) The period of any approval issued under this section shall be subject to Section 94901.~~

~~(d) Institutions approved under this section shall offer in California only programs that the institution can document to have been acknowledged or favorably reviewed by the home regional accrediting association.~~

~~(e) In reviewing the out-of-state accredited institutions, the council shall use as guidelines the standards and procedures developed by the special committee created pursuant to paragraph (5) of subdivision (b) of Section 94310.1, as in effect on December 31, 1989, and adopted by the California Postsecondary Education Commission. These standards and procedures were based on all of the following principles:~~

~~(1) Following the initial site review, subsequent onsite reviews by the council may be conducted in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the council may initiate a special review of the California operations of the institution.~~

~~(2) Each institution may include some, or all, of its separate operating sites under one application. Alternately, it may submit~~

1 ~~separate applications for any one site or combination of sites. The~~
2 ~~satellites or branches included in either an initial or renewal~~
3 ~~application shall be considered by the council to comprise a~~
4 ~~separate, single institution for purposes of regulation, approval,~~
5 ~~and compliance under this chapter.~~

6 ~~(3) The application shall include a single fee based on the~~
7 ~~number of branches, satellites, and programs included within a~~
8 ~~single application in order to cover the costs involved for such~~
9 ~~multisite and multiprogram reviews.~~

10 ~~(4) If the application is for renewal of an existing approval, the~~
11 ~~institution need only submit information necessary to document~~
12 ~~any changes made since the time its previous application was filed~~
13 ~~with the council. Fees for reapproval applications will be based on~~
14 ~~the actual costs involved in the administrative review process.~~

15 ~~(5) The council shall develop a procedural rationale to justify~~
16 ~~the number of sites to be visited by the state in the review of the~~
17 ~~institution's operations in California. The number of sites visited~~
18 ~~shall be subject to the following considerations:~~

19 ~~(A) If the application for approval includes branches and~~
20 ~~satellites, the council may inspect each branch and may inspect any~~
21 ~~satellite campus.~~

22 ~~(B) If the application is for approval to operate a branch or a~~
23 ~~satellite, the council, in addition to inspecting the branch or~~
24 ~~satellite, also may inspect the institution operating the branch or~~
25 ~~satellite campus.~~

26 ~~(C) The council may waive or modify the onsite inspection for~~
27 ~~institutions offering home study or correspondence courses.~~

28 ~~(D) The purpose of the onsite review by the council shall be to~~
29 ~~determine that operations by the institution in California meet the~~
30 ~~minimum state standards identified in statute.~~

31 ~~(E) The standards and procedures shall not unreasonably~~
32 ~~hinder educational innovation and competition *determined that*~~
33 ~~*the institution has complied with all of the following requirements:*~~

34 ~~(1) *The institution meets the financial responsibility*~~
35 ~~*requirements set forth in paragraph (2) of subdivision (a) of*~~
36 ~~*Section 94804.*~~

37 ~~(2) *The institution's cohort default rate on guaranteed student*~~
38 ~~*loans does not exceed 15 percent for the three most recent years,*~~
39 ~~*as published by the United States Department of Education.*~~

1 (3) *The institution submits to the bureau copies of its most*
2 *recent Integrated Postsecondary Education Data System Report of*
3 *the United States Department of Education and its accumulated*
4 *default rate.*

5 (4) *The institution pays fees in accordance with Section 94932.*

6 (5) *The institution has submitted an application to operate for*
7 *itself or a branch or satellite campus pursuant to Section 94802 or*
8 *an application for renewal pursuant to Section 94840.*

9 (c) *A major nationally accredited institution or a non-WASC*
10 *regionally accredited institution shall be required to notify the*
11 *bureau of the addition of a degree, diploma, or certificate program*
12 *that is not included in the institution's initial or renewal*
13 *application within 90 days of adding the program. If a major*
14 *national accrediting agency, as defined in Section 94735.2, or a*
15 *non-WASC regional accrediting agency, as defined in Section*
16 *94740.3, requires approval of the additional degree, diploma, or*
17 *certificate program, a copy of the certificate of accreditation or*
18 *approval shall be included with the notice to the bureau, and no*
19 *additional review or investigation of the program shall be required*
20 *by the bureau. If the accrediting agency does not require approval*
21 *of the additional degree, diploma, or certificate program, the*
22 *institution shall include its most recent certificate of accreditation*
23 *with the notice to the bureau, and no additional review or*
24 *investigation of the program or institution shall be required by the*
25 *bureau. Nothing in this subdivision shall be construed to limit the*
26 *authority of the bureau to investigate student complaints.*

27 (d) *A major nationally accredited institution or a non-WASC*
28 *regionally accredited institution approved to operate pursuant to*
29 *this section shall be subject to disciplinary action by the bureau if*
30 *the institution loses its accreditation or federal financial aid*
31 *eligibility due to an action taken by a major national accrediting*
32 *agency, a non-WASC regionally accredited agency, or a federal*
33 *authority.*

34 (e) *A major nationally accredited institution or a non-WASC*
35 *regionally accredited institution approved to operate pursuant to*
36 *this section is exempt from the requirements of Sections 94900 and*
37 *94901, Article 9 (commencing with Section 94915), and Article*
38 *9.5 (commencing with Section 94931), except for the applicable*
39 *financial responsibility requirements referenced in paragraph (2)*
40 *of subdivision (a) of Section 94804. Any major nationally*

1 *accredited institution or non-WASC regionally accredited*
2 *institution that is not approved to operate pursuant to this section*
3 *may apply for approval to operate pursuant to Sections 94900 and*
4 *94901.*

5 (f) *The bureau shall annually include, in the report it prepares*
6 *pursuant to Section 94995, its findings and recommendations*
7 *relative to institutions that have secured institutional or*
8 *programmatic approval pursuant to this section.*

9 SEC. 10. *Section 94945 of the Education Code is amended to*
10 *read:*

11 94945. (a) *The bureau shall assess each institution, including*
12 *a major nationally accredited institution, as defined in Section*
13 *94735.3, and a non-WASC regionally accredited institution, as*
14 *defined in Section 94740.5, except for an institution that receives*
15 *all of its students' total charges, as defined in subdivision (k) of*
16 *Section 94852, from third-party payers for the purpose of*
17 *compliance with the provisions of this chapter that are related to*
18 *the Student Tuition Recovery Fund. A third-party payer, for the*
19 *purposes of this section, means an employer, government*
20 *program, or other payer that pays a student's total charges directly*
21 *to the institution when no separate agreement for the repayment of*
22 *that payment exists between the third-party payer and the student.*
23 *A student who receives third-party payer benefits for his or her*
24 *institutional charges is not eligible for benefits from the Student*
25 *Tuition Recovery Fund.*

26 (1) (A) *The amount assessed each institution shall be*
27 *calculated only for those students who are California residents and*
28 *who are eligible to be reimbursed from the fund. It shall be based*
29 *on the actual amount charged each of these students for total tuition*
30 *cost, regardless of the portion that is prepaid, and shall be assessed*
31 *as tuition is paid or loans are funded on behalf of the student, based*
32 *upon academic term. The amount of the assessment on an*
33 *institution shall be determined in accordance with paragraphs (2)*
34 *and (3).*

35 (B) *Each institution shall collect the amount assessed by the*
36 *bureau in the form of a Student Tuition Recovery Fund fee from*
37 *its new students, and remit these fees to the bureau during the*
38 *quarter immediately following the quarter in which the fees were*
39 *collected from the students, or from loans funded on behalf of the*
40 *students, except that an institution may waive collection of the*

1 Student Tuition Recovery Fund fee and assume the fee as a debt
2 of the institution. The student's subsequent disenrollment at the
3 institution shall not relieve the institution of the obligation to pay
4 the fee to the bureau, nor be the basis for refund of the fee to the
5 student. An institution may not charge a fee of any kind for the
6 collection of the Student Tuition Recovery Fund fee. An
7 institution may refuse to enroll a student who has not paid, or made
8 provisions to pay, the appropriate Student Tuition Recovery Fund
9 fee.

10 (C) For the purposes of this section, a "new student" means a
11 student ~~that~~ who signs ~~their~~ *his or her* enrollment agreement on or
12 after January 1, 2002. Those students who sign their enrollment
13 agreement prior to January 1, 2002, are not "new students" for
14 purposes of this section, and shall be assessed the Student Tuition
15 Recovery Fund fee in effect prior to January 1, 2002, except that
16 an institution may waive collection of the Student Tuition
17 Recovery Fund fee in effect prior to January 1, 2002. Institutions
18 electing to waive collection of the Student Tuition Recovery Fund
19 fee shall disclose this fact to the student in the enrollment
20 agreement, along with the amount of the fee paid on the student's
21 behalf to the bureau.

22 (2) The amount collected from a new student by an institution
23 shall be calculated on the basis of the course tuition paid over the
24 current calendar year, based upon the assessment rate in effect
25 when the student enrolled at the institution, without regard to the
26 length of time the student's program of instruction lasts. For
27 purposes of annualized payment, a new student enrolled in a
28 course of instruction that is longer than one calendar year in
29 duration shall pay fees for the Student Tuition Recovery Fund
30 based on the amount of tuition collected during the current
31 calendar year.

32 (3) The assessment made pursuant to this section shall be made
33 in accordance with both of the following:

34 (A) Each new student shall pay a Student Tuition Recovery
35 Fund assessment for the period of January 1, 2002, to December
36 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand
37 dollars of tuition paid, rounded to the nearest thousand dollars.

38 (B) Commencing January 1, 2003, Student Tuition Recovery
39 Fund fees shall be collected from new students at the rate of two
40 dollars and fifty cents (\$2.50) per thousand dollars of tuition

charged, rounded to the nearest thousand dollars. For new students signing enrollment agreements between January 1, 2002, and December 31, 2002, inclusive, the assessment rate of three dollars (\$3) per thousand dollars of tuition paid, rounded to the nearest thousand dollars, as provided in subparagraph (A) of this paragraph, shall remain the assessment rate for the duration of the student's enrollment agreement.

(4) The bureau may levy additional reasonable special assessments on an institution under this section only if these assessments are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94944.

(5) (A) The bureau may not levy a special assessment unless the balance in any account in the Student Tuition Recovery Fund falls below two hundred fifty thousand dollars (\$250,000), as certified by the Secretary of the State and Consumer Services Agency.

(B) A special assessment is a surcharge, collected by each institution from newly enrolled students, of up to 100 percent of that institution's regular assessment for four consecutive quarters. The affected student shall pay the surcharge simultaneously with his or her regular quarterly payment to the Student Tuition Recovery Fund.

(C) The bureau shall provide at least 90 days' notice of an impending special assessment to each affected institution. This notice shall also be posted on the bureau's Internet Web site.

(D) The bureau may apply any special assessment payments that it receives from an institution as a credit toward that institution's current or future obligations to the Student Tuition Recovery Fund.

(6) The assessments shall be paid into the Student Tuition Recovery Fund and credited to the appropriate account in the fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments for the degree-granting postsecondary educational institution account shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account of the fund exceeds one million five hundred thousand dollars (\$1,500,000). Unless additional reasonable assessments are

1 required, no assessments for the vocational educational institution
2 account shall be levied during any fiscal year if, as of June 30 of
3 the prior fiscal year, the balance in that account exceeds four
4 million five hundred thousand dollars (\$4,500,000). However,
5 regardless of the balance in the fund, assessments shall be made on
6 any newly approved institution. Notwithstanding Section 13340
7 of the Government Code, the moneys so deposited in the fund are
8 continuously appropriated to the bureau for the purpose of paying
9 claims to students pursuant to Section 94944.

10 (b) The bureau may deduct from the fund the reasonable costs
11 of administration of the tuition recovery program authorized by
12 Section 94944 and this section. The maximum amount of
13 administrative costs that may be deducted from the fund, in a fiscal
14 year, shall not exceed one hundred thousand dollars (\$100,000)
15 from the degree-granting postsecondary educational institution
16 account and three hundred thousand dollars (\$300,000) from the
17 vocational educational institution account, plus the interest earned
18 on money in the fund that is credited to the fund. Prior to the
19 bureau's expenditure of any amount in excess of one hundred
20 thousand dollars (\$100,000) from the fund for administration of
21 the tuition recovery program, the bureau shall develop a plan
22 itemizing that expenditure. The plan shall be subject to the
23 approval of the Department of Finance. Institutions, *including any*
24 *major nationally accredited institution, as defined in Section*
25 *94735.3, and any non-WASC regionally accredited institution, as*
26 *defined in Section 94740.5*, except for schools of cosmetology
27 licensed pursuant to Article 8 (commencing with Section 7362) of
28 Chapter 10 of Division 3 of the Business and Professions Code and
29 institutions that offer vocational or job training programs, that
30 meet the student tuition indemnification requirements of a
31 California state agency, that secure a policy of surety or insurance
32 from an admitted insurer protecting their students against loss of
33 paid tuition, or that demonstrate to the bureau that an acceptable
34 alternative method of protecting their students against loss of
35 prepaid tuition has been established, shall be exempted from this
36 section.

37 (c) Reasonable costs in addition to those permitted under
38 subdivision (b) may be deducted from the fund for any of the
39 following purposes:

1 (1) To make and maintain copies of student records from
2 institutions that close.

3 (2) To reimburse the bureau or a third party serving as the
4 custodian of records.

5 (d) In the event of a closure by any approved institution under
6 this chapter, any assessments that have been made against those
7 institutions, but have not been paid into the fund, shall be
8 recovered. Any payments from the fund made to students on
9 behalf of any institution shall be recovered from that institution.

10 (e) In addition to civil remedies, the bureau may order an
11 institution to pay previously unpaid assessments or to reimburse
12 the bureau for any payments made from the fund in connection
13 with the institution. Before any order is made pursuant to this
14 section, the bureau shall provide written notice to the institution
15 and notice of the institution's right to request a hearing within 30
16 days of the service of the notice. If a hearing is not requested within
17 30 days of the service of the notice, the bureau may order payment.
18 If a hearing is requested, Chapter 5 (commencing with Section
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code
20 shall apply, and the bureau shall have all powers prescribed in that
21 chapter. Within 30 days after the effective date of the issuance of
22 the order, the bureau may enforce the order in the same manner as
23 if it were a money judgment pursuant to Title 9 (commencing with
24 Section 680.010) of Part 2 of the Code of Civil Procedure.

25 (f) In addition to any other action that the bureau may take
26 under this chapter, the bureau may suspend or revoke an
27 institution's approval to operate because of the institution's failure
28 to pay assessments when due or failure to pay reimbursement for
29 any payments made from the fund within 30 days of the bureau's
30 demand for payment.

31 (g) The moneys deposited in the fund shall be exempt from
32 execution and shall not be the subject of litigation or liability on
33 the part of creditors of those institutions or students.

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, July 17, 2003 (JR 11)**

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